

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

NO. 11CR 00022 JD

V.

JOSE REYES

MOTION TO CONTINUE

NOW COMES the defendant, Jose Reyes, by and through counsel, and hereby moves this Court to continue his December 3, 2012, Sentencing Hearing.

In support of this Motion, the accused states as follows:

1. The defendant is scheduled to appear in this Court on December 3, 2012, at 2:00 p.m. for his Sentencing Hearing.
2. That one of the key issues involved in the defendant's sentencing are the defendant's prior convictions. These prior convictions presently play a role in the potential determination of the defendant as a career offender. The relevant prior convictions took place in Roxbury District Court in Massachusetts (Suffolk County) on or about February 8, 1999, and in Suffolk County Superior Court in Massachusetts on or about November 4, 2004. Both are drug convictions.
3. Recently, it has come to light that a crime lab involved in testing drugs from Suffolk County has been shut down by the Massachusetts authorities based on the purported fraudulent activities of a lab analyst. This analyst worked at the lab from 2003 until recently.
4. Since the last continuance of the defendant's sentencing, the undersigned counsel has been attempting to discern whether the defendant's prior convictions are affected by the above referenced problem with the lab analyst. The undersigned counsel's

investigation has not led to any determinative answers on this issue. However, on November 30, 2012, the undersigned counsel received a phone call from Attorney Anthony Annino. Attorney Annino informed the undersigned counsel that he has been working on determining whether the defendant's November 4, 2004; drug conviction was one of the cases that the aforementioned lab analyst worked on.

Attorney Annino informed the undersigned counsel that he has received a number of documents on the November 4, 2004, conviction but has not yet received the drug certification forms that were involved. Attorney Annino informed the undersigned counsel that he was informed by Assistant Suffolk County District Attorney Paul Treseler, the Assistant District Attorney running the special Suffolk County Superior Court session dealing with the aforementioned lab analyst, that the relevant drug certification forms should be produced to Attorney Annino within one to two weeks. Once the drug certificate forms are obtained, the question of whether the particular lab analyst being involved in this case will be easily answered.

5. Given the importance of the determination of the career offender issue to the defendant's sentencing, the defendant is requesting that he be given at least 30 days to allow Attorney Annino to obtain the relevant drug certification forms.
6. That the defendant is aware of the within Motion.
7. That after speaking with Attorney Annino, the undersigned counsel telephoned Assistant United States Attorney Donald Feith of the United States Attorney's Office, to determine his position on this motion but was not able to speak with Attorney Feith. The undersigned counsel left a voice mail on this motion for Attorney Feith.

WHEREFORE, the accused respectfully requests that this Court grant the within Motion and continue his Sentencing for 30 days.

Respectfully submitted,
Jose Reyes,
By his Attorney,

Date: November 30, 2012

/S/Paul J. Garrity
Paul J. Garrity
14 Londonderry Road
Londonderry, NH 03503
603-434-4106
Bar No. 905

CERTIFICATE OF SERVICE

I, Paul J. Garrity, herein certify that on this 30th day of November, 2012, a copy of the within was e filed to the United States Attorney's Office and all counsel of record and mailed, postage prepaid, to Jose Reyes.

/S/Paul J. Garrity
Paul J. Garrity